

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(CASE NO. 13297US01)

IN THE APPLICATION OF:

Wilfrid LeBlanc

Electronically Filed on February 23, 2009.

SERIAL NO.: 10/077,405

FILED: February 15, 2002

FOR: JITTER BUFFER AND LOST-
FRAME-RECOVERY
INTERWORKING

ART UNIT: 2616

EXAMINER: Warner Wong

Conf. No.: 4140

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant submits this Reply Brief in response to the Examiner's Answer mailed on December 22, 2008.

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,623,483 ("Agrawal"). Appellant stands by the arguments presented in the Appeal Brief regarding this rejection. On page 22 of the Examiner's Answer, the Examiner responds to those arguments by saying, "The examiner also understands that the timer 230 is a delay timer (see col. 3, line 18), where delay is understood in the art as a time period." Appellant responds that the timer 230 is *not* a delay timer and the col. 3, line 18, of Agrawal, which the Examiner uses to

support this contention, does not refer to the timer 230 in any way whatsoever. Since the Examiner's whole rejection relies on this premise, the rejection falls apart here. Column 6, lines 7-9, which the Examiner also cites on page 22 of the Examiner's Answer, likewise is not referring at all to the timer 230. As explained in the Appeal Brief, the timer 230 of Agrawal merely defines a playout rate and not a playout deadline per claim 1.¹ Claim 1 defines a time period at the end of which the data element is released for playout, i.e., a playout deadline. Adjusting such a time period is not akin to adjusting the playout rate, or vice versa. Adjusting the playout deadline does not affect the playout rate. Since the playout deadline changes for all of the data elements, the playout *rate* remains the same. That is, the playout of the data elements is just offset in time by the amount of the change of the playout deadline, while the rate of playout remains the same. Therefore, Agrawal fails to teach "(b) holding each data element that is received prior to an end of a time period associated with each data element in a buffer until the end of the time period, at which time the data element is released for playout;" and "(d) adjusting a duration of the time period based upon the loss rate," per claim 1.

Also, the Examiner deems the "buffer delay," that is, the time between receipt and output of each packet, to constitute the "time period" defined in claim 1.² As claim 1 is worded, the "time period" does not refer to the buffer delay as defined as the time between receipt and output of each packet. Such a buffer delay inherently varies for each received data element depending on when it is received, that is, depending on the network delay. Instead, claim 1 as worded refers to the playout deadline, that is, the time by which a data element must be received in order to be played out. This is evident by the wording of claim 1 that refers to "(b) holding each data element that is received prior to an end of a time period associated with each data element in a buffer until the end of the time period." This does not read on a buffer delay as defined as the time between receipt and output of each packet. And furthermore, Agrawal does not teach adjusting the buffer delay, as defined as the time between receipt and output of each packet, based on a data loss rate per claim 1.

¹ Agrawal patent 5,623,483, column 5, lines 24-33.

² Examiner's Answer, page 22.

Appl. No. 10/077,405
Reply Brief dated February 23, 2009

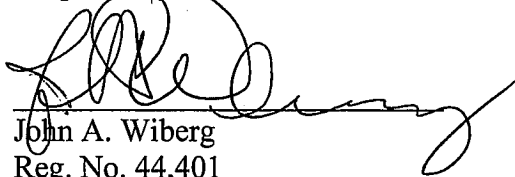
Independent claims 12 and 23 include limitations similar to those contained in claim 1. Appellant submits that claims 12 and 23, and claims 13, 14, 18-22, 24, 25 and 27-33 depending therefrom, are allowable for the reasons set forth above with respect to claim 1.

For at the foregoing reasons and for the reasons set forth in the Appeal Brief, Appellant submits that claims 1-14, 18-25, and 27-33 are allowable over the cited art. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: February 23, 2009

Respectfully submitted,



John A. Wiberg
Reg. No. 44,401
Attorney for applicant

McANDREWS, HELD & MALLOY, LTD.
500 W. Madison, Suite 3400
Chicago, IL 60661
Telephone: (312) 775-8000